

REMARKS

Claims 1-21 are pending in this application. Claims 1-12 and 17-21 stand rejected. Applicants gratefully acknowledge the allowance of claims 13-16. It is respectfully submitted that the pending claims define allowable subject matter.

Applicants respectfully submit that the finality of the Office Action is improper and request that the finality of the Office Action be withdrawn. Section 1207.04 of the MANUAL OF PATENT EXAMINING PROCEDURES (“MPEP”) instructs that:

The Examiner may, with approval from the supervisory patent examiner, reopen prosecution to enter a new ground of rejection after appellant’s brief or reply brief has been filed. The Office action containing a new ground of rejection may be made final if the new ground of rejection was (A) necessitated by amendment, or (B) based on information presented in an information disclosure statement under 37 CFR 1.97(c) where no statement under 37 CFR 1.97(e) was filed.

The outstanding Final Office Action introduces a new ground of rejection under 35 U.S.C. §101. The new ground of rejection is not based on an amendment or on information presented in an information disclosure statement under 37 C.F.R. § 1.97(c). Thus, the outstanding Final Office Action fails to satisfy the requirements of MPEP § 1207.04. Accordingly, the finality of the outstanding Office Action is improper. In view of the foregoing, Applicants respectfully request withdrawal of the finality of the outstanding Office Action and further request that the Examiner allow all of the pending claims or issue a new non-final Office Action.

Claims 1-12 and 17-21 have been rejected under 35 U.S.C. § 101 as being directed to non-statutory subject matter. Applicants respectfully traverse this rejection for at least the reasons set forth hereafter.

The outstanding Final Office Action asserts that independent claims 1 and 17 are not “tied to another statutory class (such as a particular apparatus).” (See page 2 of the outstanding Final Office Action). However, independent claim 1 has been amended herein to recite both an imaging system and a processor. Specifically, as amended herein, claim 1 recites that the step of “obtaining a data set representative of a diagnostic image corresponding to an anatomic structure” is performed “using an imaging system”. Accordingly, Applicants submit the

obtaining step of the method of claim 1 is tied to another statutory class, namely the imaging system. Moreover, amended claim 1 also recites the step of “analyzing, *using a processor*, a search region of said data set surrounding said contour template to identify transition points associated with a predefined characteristic of the anatomic structure based at least on a transition smoothness.” The analyzing step of claim 1 is therefore tied to the processor, which may or may not be a component of the imaging system. Accordingly, Applicants submit that claim 1 is directed to statutory subject matter.


Independent claim 17 has also been amended herein to recite an imaging system and a processor. Specifically, amended claim 17 recites that the step of “obtaining a series of data sets representative of a diagnostic image having at least two different types of tissue” is performed using an imaging system. Claim 17, as amended, also recites “comparing, *using a processor*, said data points to identify transition points having a predefined characteristic indicative of a change from one type of tissue to one of a second type of tissue and blood based at least on a transition smoothness.” Accordingly, Applicants submit the method of claim 17 is tied to another statutory class, namely the imaging system and the processor. Claim 17 is therefore submitted to be directed to statutory subject matter.

Claims 2-12 and 18-21 are submitted to be directed to statutory subject matter based at least on the dependency of claims 2-12 and 18-21 from independent claims 1 and 17, respectively.

For at least the reasons set forth above, claims 1-12 and 17-21 are submitted to satisfy the requirements of Section 101.

In view of the foregoing amendments and remarks, it is respectfully submitted that the cited references neither anticipate nor render obvious the claimed invention and the pending claims in this application are believed to be in condition for allowance. Reconsideration and favorable action is respectfully solicited. Should anything remain in order to place the present application in condition for allowance, the Examiner is kindly invited to contact the undersigned at the telephone number listed below.

Respectfully Submitted,



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